



Rex Railways, Inc.

No. *8-292 A012*
Date **OCT 19 1978**
Fee \$ *50.00*

ICC Washington, D. C.

EXECUTIVE OFFICES

616 PALISADE AVENUE
ENGLEWOOD CLIFFS, NEW JERSEY 07632
TELEPHONE: (201) 567-8300

RECORDATION NO. *9782* FILED 1428

OCT 19 1978 10:45 AM

INTERSTATE COMMERCE COMMISSION

October 17, 1978

Mrs. Mildred Lee
Interstate Commerce Commission
Recordation Department, Room 1227
12th and Constitution Avenue, N.W.
Washington, D. C. 20423

Dear Mrs. Lee:

We enclose an original and two copies of a lease dated October 16, 1978 between Rex Railways, Inc. and GATX Third Aircraft Corporation covering ten covered hopper cars sub-leased by Rex Railways, Inc. to Vermont Railway, Inc. (see recordation 9738 filed with the I.C.C. on October 5, 1978).

Enclosed is our recording fee of \$50.00 payable to the I.C.C. Please return official recording receipts to the undersigned.

Thanking you for your cooperation,

Most cordially yours,

Mark A. Salitan
Chairman

MAS:d1m
Encl.

Sent by Federal Express

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OCT 19 10 35 AM '78
I.C.C.
FEE OPERATION BR.



Interstate Commerce Commission

Washington, D.C. 20423

10/20/78

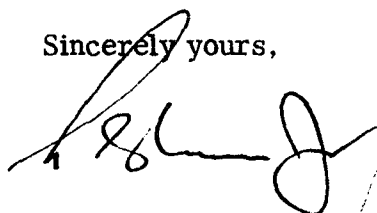
OFFICE OF THE SECRETARY

**Mark A. Salitan
Rex Railways, Inc.
616 Palisade Avenue
Englewood Cliffs, New Jersey 07632**

Dear Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on **10/19/78** at **10:45am**
and assigned recordation number(s) **9782**

Sincerely yours,



**H.G. Homme, Jr.,
Acting Secretary**

Enclosure(s)

**SE-30-T
(2/78)**

FILING COPY

9782
RECORDATION NO. Filed 10/1/78

OCT 1 9 1978 10:45 AM

INTERSTATE COMMERCE COMMISSION

Sub —

LEASE OF RAILROAD EQUIPMENT

dated as of October *16*, 1978

between

REX RAILWAYS, INC.

and

GATX THIRD AIRCRAFT CORPORATION

Sub - LEASE OF RAILROAD EQUIPMENT dated as of October 16, 1978 between REX RAILWAYS, INC. (hereinafter called the Lessee), and GATX THIRD AIRCRAFT CORPORATION (hereinafter called the Lessor).

WHEREAS, the Lessor proposes to acquire the ten covered hopper cars and other railroad cars as more fully described in Schedule A hereto (hereinafter called the Units); and

WHEREAS, the Lessee will lease from the Lessor all the Units so acquired or such lesser number of Units as are delivered and accepted hereunder at the rentals, for the terms and upon the conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions.

Section 1. Purchase Price and Payment. The term Purchase Price shall mean the aggregate purchase price paid by the Lessor for the Units set forth in Schedule A hereto as set forth in the Acceptance Certificate relating thereto. As applied to an individual Unit, Purchase Price shall mean the total purchase price paid by the Lessor as set forth in the Acceptance Certificate relating to such Unit. On delivery and acceptance of a Unit as hereinafter provided, the Lessor shall accept the Units for lease hereunder and pay to the builder of the Units (hereinafter called the Builder) an amount equal to the Purchase Price of the Unit, provided that the following conditions precedent have been satisfied:

(a) The Unit is accepted for lease by Lessee not later than December 28, 1979 and the Purchase Price of such Unit when added to the aggregate Purchase Price of all Units leased by Lessee hereunder will not exceed \$2,500,000;

(b) There shall have been no materially adverse change in the financial condition of the Lessee or Rex Noreco, Inc. (hereinafter called the "Guarantor") since April 30, 1978, the date of the most recent financial statements of the Guarantor submitted to the Lessor;

(c) The Lessee shall have entered into bonafide subleases of Units previously leased whose Purchase Price aggregate not less than 75% of the Purchase Price of all Units on lease at such time and (i) the aggregate rental payable to the Lessee under such subleases shall be an amount not less than the aggregate rental payments due the Lessor for such Units hereunder for comparable time periods (ii) no default exists under any such sublease and (iii) the Lessee shall have assigned to Lessor, in form and substance satisfactory to Lessor, its rights under said subleases as security for payments due hereunder;

(d) There shall have been delivered to the Lessor, the following documents, in form and substance satisfactory to it, in such number of counterparts as may be reasonably requested:

(i) a bill of sale from the Builder to the Lessor transferring to the Lessor title to the Units, warranting to the Lessor that (1) the builder has good legal title to the Units, has good and lawful right to sell such Units and that title to the Units is free and clear of all

claims, liens, security interests and other encumbrances of any nature; (2) the Units have been constructed in accordance with the specifications previously certified to the Lessor by an officer of the Lessee, a copy of such specifications to be attached to such bill of sale, and (3) covenanting to defend the title to such Units against the demands of all persons whomsoever; and

(ii) an opinion of counsel for the Lessee to the effect set forth in Section 14 hereof and an opinion of counsel for the Guaranty in form and substance satisfactory to the Lessor as to the matters set forth in Section 1 of the Guaranty.

The Lessor will cause each Unit which the Lessee, in its sole discretion, determines to lease hereunder to be tendered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and to execute and deliver to the Lessor and the Builder a certificate of acceptance and delivery substantially in the form of Exhibit A hereto whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

Section 2. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one hundred and eighty (180) consecutive monthly payments in arrears payable on the date of delivery and acceptance and on the same date in each month thereafter until paid, each payment in an amount equal to .87799% of the Purchase Price.

If any of the monthly rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Englewood Cliffs, New Jersey or San Francisco, California are authorized or obligated to remain closed. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds in the city where such payment is to be made.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or set off against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto

that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

Section 3. Term of Lease. The term of this Lease as to the Units shall begin on the date of delivery to and acceptance by the Lessee and, subject to the provisions of Sections 6, 9 and 12 hereof, shall terminate fifteen years thereafter. The obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 5, 6, 8 and 13 hereof) shall survive the expiration of the term of this Lease.

Section 4. Identification Marks. The Lessee will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Title to this car, subject to documents recorded under Section 20(c) of the Interstate Commerce Act" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's title to such Unit and the rights of the Lessor under this Lease. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same under this Lease until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Lessor an opinion of counsel to the effect set forth in subclause (viii) of Section 14 hereof in respect of such statement. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

Section 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or foreign taxes or certification, registration or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms of this Lease (all such expenses, taxes, certification, registration and license fees, assessments, charges,

3 fines and penalties being hereinafter called impositions), all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein and from and against which the Lessee agrees to indemnify, protect, defend, save and keep harmless on an after tax basis the Lessor; provided, however, that unless otherwise specifically provided herein, the Lessee's obligation to pay impositions shall not include (a) any federal income tax payable by the Lessor in consequence of the receipt of payments provided for herein and (b) all income taxes or franchise taxes measured by net income based on such receipts imposed on the Lessor by the state and city in which the Lessor has its principal place of business, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided. The Lessee will also pay promptly all impositions that may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor by reason of its ownership thereof and will keep at all times all and every part of the Units free and clear of all impositions that might in any way affect the title of the Lessor in and to any Unit or its interests or rights under this Lease; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title, interest or rights of the Lessor hereunder. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor the Lessee shall reimburse the Lessor promptly upon presentation of an invoice therefor. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee (and whose fees and expenses shall be paid by the Lessee) a bona fide claim exists for a refund of all or a portion of any imposition in respect of which the Lessee has made payment to the Lessor, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein. The Lessee shall be entitled to the proceeds of the successful prosecution of any such claim to the extent of payments or reimbursement made by the Lessee pursuant to this Section 5.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interest of the Lessor in the Units or notify the Lessor of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition, pursuant to this Section 5, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee. The obligations of the Lessee under this Section 5 constitute a rental obligation.

Section 6. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatso-

ever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in Sections 13 or 10 hereof, as the case may be, the Lessee shall promptly and fully notify the Lessor with respect thereto. On the rental payment date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B attached hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue. Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such unit it may have, and the term of this Lease as to such Unit shall thereupon terminate.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit set forth in the right hand column of Schedule B hereto opposite the rental payment number that is due on such date.

Whenever any Unit shall suffer a Casualty Occurrence after the final rental payment has been made pursuant to Section 2 hereof and before such Unit shall have been returned in the manner provided in Section 13 hereof, the Lessee shall promptly and fully notify the Lessor with respect hereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 25% of the Purchase Price of such Unit.

Except as hereinabove in this Section 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after the date first above mentioned.

The Lessee will cause to be carried and maintained at all times during the term of this Lease physical damage and liability insurance covering the Units in the name of the Lessor and the Lessee in such amounts and in such form as shall be satisfactory to the Lessor. The Lessee will provide all risk property damage for the Units in an amount not less than the greater of the aggregate Casualty Value of all such Units or the amount prescribed in the interchange rules of the Association of American Railroads or any successor organization responsible for matters pertaining to the interchange of freight traffic applicable to the loss of such Units (the "AAR" Value"); provided, however, that the Lessor agrees to obtain at the request and expense of the Lessee insurance coverage for the amount, if any, by which the Casualty Value exceeds the AAR Value of the Units. The Lessee currently maintains the liability insurance coverage described in Schedule C and shall not, without the Lessor's written consent, reduce the amounts of such insurance coverage. Such insurance policy or policies shall provide that all losses thereunder will be adjusted with the Lessee and the Lessor and will be payable to the Lessor and the Lessee as their respective interests may appear.

The policies of insurance required hereunder shall be valid and enforceable policies issued by insurers of recognized responsibility comparable to the Lessee's present insurers. Originals of the policies and satisfactory evidence of the payment of premiums thereon shall be delivered by the Lessee to the Lessor except that the Lessor may accept copies of the policies and certificates of insurance in lieu of original policies.

Such policies may be blanket policies covering other equipment not covered by this Lease, provided that any blanket policy shall in an accompanying certificate of insurance or rider specifically designate the Units as being included therein and covered thereby to the full extent of the amounts herein required and shall name the Lessor as an additional insured party thereunder with respect to such Units. All such policies shall contain an agreement by the insurers that such policies shall not be cancelled without at least 10 days prior written notice to the Lessor and that the insurer will give notice to the Lessor in the event of nonpayment of premium by the Lessee when due.

Any insurance proceeds (less expenses of collection) as the result of insurance carried by the Lessee or condemnation payments received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this Section 6, if such amounts are received by the Lessor on the or prior to the date when such Casualty Value is due. If the Lessor shall receive any such insurance proceeds or condemnation payments after the Lessee shall have made payments pursuant to this Section 6 without deduction for such amounts, such insurance proceeds or condemnation payments shall be paid to the Lessee up to the amount of the Casualty Value payment made to the Lessor. Fifty percent (50%) of any insurance proceeds or condemnation payments in excess of the Casualty Value payment made to Lessor shall be paid to the Lessee as compensation for the loss of its leasehold interest in the Units and the balance shall be paid to the Lessor as owner of the Units. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which proceeds were paid has been fully repaired.

Section 7. Reports. On or before March 31 in each year, commencing with the calendar year 1979, the Lessee will furnish to the Lessor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder, the amount, description, location and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition, location and state of repair of the Units as the Lessor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statements, the numbers and markings required by Section 4 hereof have been preserved or replaced. The Lessor shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

The Lessee will furnish the Lessor (i) within 60 days after the end of each of the first three quarterly fiscal periods of the Lessor, balance sheets of the Lessor and Guarantor as of the close of such periods, together with the related statements of income and retained earnings, all in reasonable detail and prepared by the respective Comptroller of each Corporation and (ii) within 120 days after the close of each fiscal year of the Lessee and Guarantor, the balance sheets of the Lessee and Guarantor as of the close of their respective fiscal years, together with the statements of income and retained earnings for such fiscal years, all prepared in reasonable detail in accordance with generally accepted accounting principles and certified by a recognized national firm of inde-

pendent public accountants, including accompanying notes, (iii) within 120 days after the close of each fiscal year of the Lessee and Guarantor, certificates of the Lessee and Guarantor signed by the principal financial officer or a vice president of each corporation to the effect that the signer has reviewed the relevant terms of this Lease and the Guaranty, as the case may be, and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee and Guarantor during the preceding fiscal year, and that such review has not disclosed the existence during such period, nor does the signer have knowledge of the existence as at the date of such certificate, of any condition or event which constitutes an Event of Default or which, after notice or lapses of time or both, would constitute an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee has taken or is taking or proposes to take with respect thereto, (iv) all reports which Lessee and Guarantor shall send to its stockholders and all reports which it is or may be required to file with the Securities and Exchange Commission, (v) promptly upon the filing of the same, the Railroad Annual Report Form R-2 (or any form substituted therefor) of the Lessee and the Guarantor, respectively, (vi) from time to time such other information as the Lessor may reasonably request.

Section 8. Disclaimer of Warranties; Compliance with Laws and Rules; Use; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units.

The Lessee agrees, for the benefit of the Lessor to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that prior to the expiration of this Lease or any renewal hereof, such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense and title to any additions or improvements so made shall thereupon vest in the Lessor; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the

Lessor, adversely affect the property of the Lessor under this Lease.

The Lessee agrees that none of the Units will be assigned to regular service outside the continental United States.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition and at all times suitable for interchange.

Any and all additions to any Unit (except equipment or devices which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit, which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body and which may be readily removed from such Unit without materially damaging such Unit or the value thereof) and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in the Lessor. The Lessee shall not permit any special device or assembly to be attached or affixed to any Unit which may not be readily removed from such Unit without materially impairing such Unit or the value thereof unless such special device or assembly is to be considered an accession to such Unit.

The Lessee agrees to indemnify, protect and hold harmless the Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default or an Event of Default under this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 13 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, filed on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units or the leasing thereof to the Lessee.

Section 9. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any amount provided for in Sections 2, 6 or 12 hereof, and such default shall continue for seven business days;

ment, or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee set forth herein or on the part of the Guarantor, set forth in the Guaranty Agreement of even date herewith, between the Guarantor and the Lessor (hereinafter called the "Guaranty") and such default shall continue for 25 days after written notice from the Lessor to the Lessee or Guarantor, as the case may be, specifying the default and demanding that the same be remedied;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee or Guarantor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or the Guarantor under the Guaranty Agreement, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

E. any other proceedings shall be commenced by or against the Lessee or Guarantor for any relief which includes, or might result in, any modification of the obligations of the Lessee or Guarantor under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or Guarantor under the Guaranty Agreement) and, unless such shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or the Guarantor under the Guaranty Agreement, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee or the Guarantor under the Guaranty Agreement, as the case may be, in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier.

Then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of federal and state income

benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thence forth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 5-1/2% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor and in respect of the receipt thereof under the laws of any federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Lessor, cause the Lessor's net after-tax annual cash flow and net after-tax annual rate of return to be the same as such net after-tax annual cash flow and net after-tax annual rate of return would have been had the Lessor been entitled to utilization of all or such portion of the ADR Deduction or Investment Credit (as such terms are defined in Section 16 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in Section 16 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished

to the Lessor by the Lessee or Guarantor, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of any Event of Default plus such sum as will pay or reimburse the Lessor for any interest, penalties or additions to tax incurred in connection with such loss, failure to claim, inability disallowance or recapture.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such rights upon the continuation or recurrence of any such contingencies or similar contingencies.

Section 10. Return of Units Upon Default. If this Lease shall terminate pursuant to Section 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner and at the usual speed place such Units upon storage tracks of the Lessee or such other tracks as the Lessor reasonably may designate, provided that such storage will not interfere with the railroad operations of the Lessee or any of its affiliates;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage for a period of 180 days or until such Units have been sold, leased or otherwise disposed of by the Lessor, whichever shall occur first, provided that such storage will not interfere with the railroad operations of the Lessee or any of its affiliates; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Units in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .0293% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

Section 11. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under Sections 5, 6, 8, 9 and 17 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively). Lessee agrees that it shall so long as any such assignment may be effective: (i) recognize any such assignment, (ii) accept the directions or demands of such assignee in place of those of Lessor, (iii) surrender any leased property only to such assignee, (iv) pay all rent payable hereunder and to do any and all things required of Lessee hereunder and not terminate this Lease (other than as provided for herein), notwithstanding any default by Lessor or the existence of any other offset as between Lessor and Lessee or the existence of any other liability or obligation of any kind or character on the part of Lessor to Lessee whether or not arising hereunder, (v) not require any assignee of this Lease to perform any duty, covenant or condition required to be performed by the assignor under the terms of this Lease, all rights of Lessee in any such connection aforesaid being hereby waived as to any and all of such assignees, and (vi) execute any documents (or consent to such assignment) which Lessor may reasonably request in order to effectuate the foregoing; provided, however, that nothing hereinabove set forth shall relieve Lessor from its obligations to Lessee here-

under, and any such assignment, transfer or mortgage shall be subject and subordinate to the terms and provisions of this Lease and the rights and interest of Lessee in the Units hereunder.

So long as no Event of Default hereunder occurs, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them, except that the Lessee may sublease the Units as provided in the immediately succeeding paragraph. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or resulting from claims against the Lessor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as no Event of Default hereunder occurs, the Lessee shall be entitled to the possession of the Units and shall also be entitled (i) to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, (ii) to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to runthrough agreements, and (iii) to sublease any Unit or Units to other companies incorporated under the laws of any state of the United States or the District of Columbia for use in connection with their operations but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessee shall remain primarily liable for all of its obligations under this Lease and shall not use or permit the use of any Unit in service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other companies so using any of the Units.

Nothing in this Section 11 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

Section 12. Renewal Option; Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than three months prior to the end of the original term or any of not more than six extended terms of this Lease, as the case may be, elect to extend the term of this Lease in respect of all but not fewer than all the Units then covered by this Lease, for an additional one-year period commencing on the scheduled expiration of the original term or any extended term of this Lease, as the case may be, provided that no such extended term extends beyond October 1, 2000, at a "Fair Market Rental" payable in monthly payments in advance in each year of such extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental value. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such value or rental shall be determined in accordance with the foregoing definition by the following procedure. If either party to such determination shall have given written notice to the other requesting determination of such rental value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be

instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

Unless an Event of Default shall have occurred and be continuing at the end of the original term of this Lease, or any event or condition which, upon lapse of time or giving of notice, or both, would constitute such an Event of Default shall have occurred and be continuing at such time, Lessor shall not, at or within one year following the end of the original term of this Lease, sell any Unit (including any sale prior to the end of such term for delivery of such Unit at or following the end of such term) unless:

(a) the Lessor shall have received from a responsible purchaser a bona fide offer in writing to purchase such Unit;

(b) the Lessor shall have given the Lessee notice (i) setting forth in detail the identity of such purchaser, the proposed purchase price, the proposed date of purchase and all other material terms and conditions of such purchase, and (ii) offering to sell such Unit to the Lessee upon the same terms and conditions as those set forth in such notice; and

(c) the Lessee shall not have notified the Lessor, within 20 days following receipt of such notice, of its election to purchase such Unit upon such terms and conditions.

If the Lessee shall not have so elected to purchase such Unit, Lessor may at any time sell such Unit to any party at a price and upon other terms and conditions no less favorable to Lessor than those specified in such notice.

Section 13. Return of Units Upon Expiration of Term.

As soon as practicable on or after the expiration of the original or extended term of this Lease, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of the Units to the Lessor upon such storage tracks as the Lessor shall reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store the Units on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of a railroad operated by the Lessee or an affiliate of the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of the Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 13 shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .0293% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

Section 14. Representations and Warranties; Opinion of Counsel. The Lessee represents and warrants to the Lessor that:

(i) the Lessee and Guarantor are corporations duly organized and validly existing in good standing under the laws of their states of incorporation and are duly qualified and authorized to do business wherever necessary to carry on their present businesses and operations and to own their properties and to perform their obligations under this Lease and the Guaranty;

(ii) the Lessee and the Guarantor have the full power, authority and legal right to enter into and perform their respective obligations under this Lease and the Guaranty, and the execution, delivery and performance of this Lease and the Guaranty have been duly authorized by all necessary corporate action on the part of the Lessee and Guarantor, as the case may be;

(iii) neither the Lessee nor the Guarantor is a party to any agreement or instrument or subject to any charter or other corporate restrictions which will materially adversely affect its financial condition, business or operations or the ability of the Lessee or Guarantor to perform its obligations under this Lease or Guaranty, as the case may be;

(iv) neither the execution and delivery of this Lease or the Guaranty nor the consummation of the transactions herein or therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality, or of the corporate charter (as amended) or the by-laws (as amended) of the Lessee or Guarantor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessor or Guarantor is now a party or by which it may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder;

(v) no mortgage, deed of trust or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interest therein of the Lessee or Guarantor, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein;

(vi) no authorization or approval is required from any governmental or public body with respect to the entering into or performance by the Lessee of this Lease or by the Guarantor of the Guaranty;

(vii) this Lease and the Guaranty have been duly authorized, executed and delivered by the Lessee and Guarantor, as the case may be, and, assuming due authorization, execution and delivery thereof by the other parties thereto, are legal, valid and binding agreements, enforceable in accordance with their terms; subject as to the enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally;

(viii) this Lease has been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Lessor's interest in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government or agency is necessary in order to protect the interests of the Lessor in and to the Units in the United States of America; and

(ix) no adverse change has occurred in the financial condition of the Lessee or Guarantor since April 30, 1978.

Simultaneously with the execution and delivery of this Lease, the Lessee will deliver to the Lessor counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect set forth in clauses (i), (ii), (iv), (v), (vi) and (vii), and upon filing and recordation of this Lease with the Interstate Commerce Commission prior to acceptance of Units for lease hereunder, a supplementary opinion to the effect of clause (viii). The Lessee will also deliver to the Lessor counterparts of a certificate of the chief mechanical officer of the Lessee as to each Unit having a useful economic life of at least 26 years and an anticipated residual value at the end of 15 years of at least 20% of the Purchase Price thereof.

Section 15. Recording. The Lessee will cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or any assignee of Lessor for the purpose of proper protection, to its satisfaction, of the Lessor's or such assignee's interest in the Units or this Lease, or for the purpose of carrying out the intention of this Lease; and the Lessee will promptly furnish to the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor.

Section 16. Federal Income Taxes. This Lease has been entered into on the assumption that (A) the Lessor, as the owner of the Units, will be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the "Code"), to an owner of property, including, without limitation the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code for new property (hereinafter called the ADR Deduction), (a) utilizing a 12-year depreciable life, which is the lower limit listed in Revenue Procedure 77-10, I.R.B. 1977-12,4 for property in Asset Guideline Class No. 00.25, in accordance with the Class Life Asset Depreciation Range System described in Section 167(m) of the Code and the Treasury Regulations promulgated thereunder as in effect on the date hereof, (b) employing initially the double declining-balance method of depreciation with a change, not requiring the consent of the Commissioner of Internal Revenue, to the sum of the years-digits method of depreciation when most beneficial to the Lessor, (c) including in the basis of the Units the entire Purchase Price thereof and all other items properly includable under Section 1012 of the Code, and (d) taking into account a gross salvage value of 10% of the Purchase Price of the Units which will be reduced by 10% of the Purchase Price as allowed by Section 167(f) of the Code, and the 10% investment credit in 1978 (herein called the "Investment Credit") with respect to the aggregate Purchase Price of the Units pursuant to Section 38 and related sections of the Code; and (B) all amounts includable in gross income by the Lessor with respect to this Lease will be treated as income from sources within the United States.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing or which would increase the amount of rentals required to be taken into income by the Lessor, and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. The Lessee agrees to keep and make available for inspection and copying by the Lessor such records as will enable the Lessor to determine whether it is entitled (A) to the full benefit of the Investment Credit and ADR Deduction with respect to the Units, and (B) to treat amounts includable in gross income with respect to this Lease as income from sources within the United States. Lessor agrees without warranty of any kind that it is its present intention to hold title to the Units for their entire useful lives.

The Lessee represents and warrants that (i) all the Units constitute property, the full Purchase Price of which qualifies for the Investment Credit under section 38 and 50 of the Code; (ii) at the time the Lessor becomes the owner, the Units will constitute "new section 38 property" within the meaning of sections 46 and 48 of the Code, and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; (iii) the Units will not be used predominantly outside the United States within the meaning of Rev. Proc. 77-10 (Sec. 2.03), 77-1 C.B. 548; (iv) for Federal income tax purposes, all amounts includible in the gross income of the Lessor with respect to the Units and all deductions allowable to the Lessor with respect to the Units will be treated as derived from or allocable to, sources within the United States; (v) the Units fall within Asset Guideline Class 00.25 as described in Rev. Proc. 77-10, 77-1 C.B. 548 (which shows a lower limit asset depreciation range of the 12 years) and may be depreciated by the Lessor to a gross salvage value of 10% of the Purchase Price which may be reduced by 10% of the Purchase Price under Section 167(f) of the Code; (vi) the income tax basis of the Units will be no less than the Purchase Price and (vii) each Unit will be placed in service on the date such Unit becomes subject to the Lease.

If by reason of the inaccuracy in law or in fact of any of the representations and warranties set forth in the immediately preceding paragraph, or the breach by the Lessee of any of its agreements hereunder or under the Lease or any act or omission of the Lessee, Guarantor or any affiliate of the Lessee or any sublessee of any thereof or the sale or other disposition of any Unit or the interest of the Lessor after the occurrence of an Event of Default under the Lease, the Lessor shall lose, or shall not have, or shall lose the right to claim, or shall suffer a disallowance of or shall be required to recapture all or any portion of the Investment Credit or ADR Deduction with respect to all or part of any Unit or if for Federal income tax purposes any item of income, loss or deduction with respect to any Unit is treated as derived from, or allocable to, sources without the United States (any such loss, disallowance, recapture or treatment being hereinafter called a Loss), then in any such case the Lessee shall pay to the Lessor on each of the dates provided in the Lease thereafter for payment of the installments of rental thereunder commencing with the first such date following written notice to the Lessee by the Lessor, such sums which, when taken together with the portion of the rental installments due on such dates under the Lease will, in the reasonable opinion of the Lessor, maintain the Lessor's after-tax rate of return and total net after-tax cash flows (computed on the same assumptions as utilized by the Lessor in originally evaluating this transaction) in respect of such Unit under the Lease at at least the same level that would have been available if such Loss had not occurred (taking into consideration any interest,

penalty or addition to tax incurred by the Lessor in connection with such Loss). In the event that the Lease is terminated with respect to any Unit prior to the time the Lessee is obligated to make payments to the Lessor as set forth in the preceding sentence (either because no such payment obligation had become fixed under such sentence prior to such termination or because the due date of such payment or payments shall occur following such termination), then the Lessee shall pay the Lessor, in lieu of such payment or payments, on or before 30 days after written notice to the Lessee by the Lessor of such Loss, such lump sum (calculated in same manner as set forth in the preceding sentence) as shall be necessary in the reasonable opinion of the Lessor to maintain the Lessor's after-tax rate of return and total net after-tax cash flows (computed on the same assumptions as utilized by the Lessor in originally evaluating this transaction) in respect of such Unit hereunder and under the Lease at at least the same level that would have been available if such Loss had not occurred (taking into consideration any interest, penalty or addition to tax incurred by the Lessor in connection with such Loss).

Anything in the preceding paragraph to the contrary notwithstanding, the Lessee shall not be required to make any payment to the Lessor provided for therein in respect of a Loss if the Lessor shall have suffered such Loss with respect to all or part of any Unit (a) as a direct result of the failure of the Lessor to claim in a timely manner the Investment Credit or ADR Deduction (unless such the Lessor shall have received an opinion of its tax counsel to the effect that it is not entitled to make such claim), or (b) solely as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under Section 7 of the Lease;

(ii) a voluntary transfer or other voluntary disposition by the Lessor of any interest in such Unit unless, in each case, an Event of Default shall have occurred and be continuing; or

(iii) the failure of the Lessor to have sufficient income to benefit from the Investment Credit or ADR Deduction.

In the event and to the extent that any amount in respect of any replacement, improvement and/or addition to any Unit or any expenditure by the Lessee in respect of any Unit or the Lease (hereinafter called Additional Expenditures) made by the Lessee, under and pursuant to the terms of the Lease or otherwise, is required to be included in the gross income of the Lessor for Federal, state or local income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, then the Lessee hereby agrees that it will pay to the Lessor on each of the dates provided in the Lease for payment of the installments of rental thereunder in respect of such Unit commencing with the first such date following the date on which such inclusion is required, such sums which, when taken together

with the rental installments due on such dates under the Lease in respect of such Unit, will, in the reasonable opinion of the Lessor, maintain the Lessor's after-tax rate of return and total net after-tax cash flows (computed on the same assumptions as utilized by the Lessor in originally evaluating this transaction) in respect of such Unit hereunder and under the Lease at at least the same level that would have been available if no such inclusion had been required (taking into consideration any interest, penalty or addition to tax incurred by the Lessor as a result of such inclusion).

In the event the rental rates shall be adjusted as hereinbefore provided, the Casualty Values set forth in Section 7 hereof shall be adjusted accordingly.

The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this Section 16 shall survive the expiration or other termination of this Lease.

Section 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 3% over the best commercial loan rate on 90 day loans to responsible and substantial borrowers as in effect from time to time at Wells Fargo Bank, National Association, San Francisco, California of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

Section 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at One Embarcadero Center, San Francisco, California 94111, Attention of Contracts Administration,

(b) if to the Lessee, at 616 Palisade Avenue, Englewood Cliffs, New Jersey 07632, Attention of the President,

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

Section 19. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

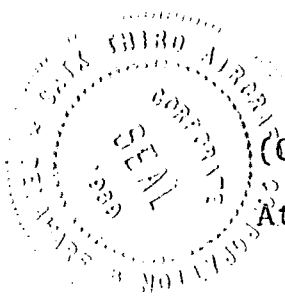
This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

Section 20. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Lessor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

Section 21. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of California; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

Section 22. Non-Utilization Fee. On January 1, 1980, the Lessee shall pay to the Lessor a fee equal to one percent (1%) of the difference, if any, between \$2,500,000 and the aggregate Purchase Price of the Units accepted for lease hereunder.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.



(Corporate Seal)

Attest:

Albert F. Burn

Assistant Secretary

(Corporate Seal)

Attest:

Doris Wilson

Assistant Secretary

GATX THIRD AIRCRAFT CORPORATION

By

[Signature]
Vice President

REX RAILWAYS, INC.

By

Donald A. Jantzen, Chairman

SCHEDULE A TO LEASE

<u>Type</u>	<u>Estimated Quantity</u>	<u>Estimated Purchase Price per Unit</u>	<u>Manufacturer</u>	<u>Road Numbers (Both Inclusive)</u>
100 Ton ACF Design CF 4600 Center Flow Cars	10	\$37,000- \$40,000	ACF Indus- tries or Pullman Inc.	6001 to 6010
(additional 15)				
XM Box Cars	38	\$37,000- \$40,000	ACF Indus- tries or Pullman Inc.	

SCHEDULE B
CASUALTY VALUE

Rental
Payment Number:

The Casualty Value
as a Percentage of
Purchase Price for Each
Unit of Equipment is:

1	101.00
2	101.65
3	101.89
4	102.12
5	102.35
6	102.57
7	102.79
8	103.00
9	103.20
10	103.40
11	103.59
12	103.78
13	103.96
14	104.13
15	104.29
16	104.45
17	104.61
18	104.75
19	104.89
20	105.03
21	105.15
22	105.28
23	105.39
24	105.50
25	105.60
26	105.70
27	105.79
28	105.87
29	105.95
30	106.02
31	106.08
32	106.14
33	106.19
34	106.24
35	106.28
36	106.31
37	99.67
38	99.69
39	99.70
40	99.71
41	99.71
42	99.71
43	99.71
44	99.65

45	99.65
46	99.62
47	99.59
48	99.54
49	99.50
50	99.44
51	99.38
52	99.31
53	99.23
54	99.15
55	99.07
56	98.97
57	98.87
58	98.77
59	98.65
60	98.53
61	91.74
62	91.61
63	91.47
64	91.33
65	91.18
66	91.02
67	90.86
68	90.69
69	90.51
70	90.33
71	90.14
72	89.95
73	89.75
74	89.54
75	89.33
76	89.10
77	88.88
78	88.65
79	88.41
80	88.16
81	87.91
82	87.65
83	87.39
84	87.12
85	86.17
86	79.89
87	79.60
88	79.30
89	79.00
90	78.69
91	78.38
92	78.05
93	77.72
94	77.39
95	77.05
96	76.71
97	76.35
98	75.99
99	75.63
100	75.26
101	74.88
102	74.49
103	74.10

104	73.71
105	73.30
106	72.89
107	72.48
108	72.05
109	71.62
110	71.19
111	70.75
112	70.30
113	69.85
114	69.38
115	68.92
116	68.44
117	67.97
118	67.48
119	66.99
120	66.49
121	65.98
122	65.47
123	64.96
124	64.43
125	63.90
126	63.36
127	62.82
128	62.27
129	61.72
130	61.16
131	60.59
132	60.01
133	59.43
134	58.85
135	58.25
136	57.65
137	57.05
138	56.43
139	55.82
140	55.19
141	54.56
142	53.92
143	53.28
144	52.63
145	51.97
146	51.31
147	50.64
148	49.96
149	49.28
150	48.59
151	47.90
152	47.20
153	46.49
154	45.78
155	45.06
156	44.33

157	43.60
158	42.86
159	42.11
160	41.36
161	40.61
162	39.84
163	39.07
164	38.29
165	37.51
166	36.72
167	35.93
168	35.12
169	34.31
170	33.50
171	32.68
172	31.85
173	31.02
174	30.18
175	29.33
176	28.48
177	27.62
178	26.75
179	25.88
180	25.00

SCHEDULE C

Insurance Coverage

A. Physical damage insurance

The Home Insurance Company, policy No. SP-60-71-04 insures for physical damage, with a \$500.00 deductible provision, the cost of each covered hopper car and the certificate of insurance will reflect the interest as owner of the car namely GATX Third Aircraft Corporation.

B. Liability coverage

Home Insurance Company, policy No. GA 9718668 first \$1 million and excess of \$2 million coverage with U.S. Fire Insurance Company, Policy No. 522003218.

State of New ~~York~~ ^{JERSEY}
County of ~~New York~~ ^{BERGEN} ss.:

On the ^{16th} day of October 1978, before me personally came MARK A. SALITAN to me known, who, being by me duly sworn, did depose and say that he resides at 121 DEERFIELD DR. TENAFLY, N.J.; that he is the CHAIRMAN & EX. V.P. of Rex Railways, Inc., the corporation described in and which executed the above Lease of Railroad Equipment; that he knows the corporate seal of said corporation; that the seal affixed to said Lease of Railroad Equipment is such corporate seal; that it was so affixed by authority of the Board of Directors of said corporation; and that he signed his name thereto by like authority.

Rubin Schertz
.....
Notary Public ✓

RUBIN SCHERTZ
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 4, 1982

State of New York
County of New York ss.:

On the 16th day of October 1978, before me personally came Gerald R. Gray to me known, who, being by me duly sworn, did depose and say that he resides at 262 Aqueduct, New York, that he is the Vice President of GATX Third Aircraft Corporation, the corporation described in and which executed the above Lease of Railroad Equipment; that he knows the corporate seal of said corporation; that the seal affixed to said Lease of Railroad Equipment is such corporate seal; that it was so affixed by authority of the Board of Directors of said corporation; and that he signed his name thereto by like authority.

Gale L. Michaels (SOSS)
Notary Public

GALE L. MICHAELS
NOTARY PUBLIC, State of New York
No. 30-4630199
Qualified in Nassau County
Commission Expires

GALE L. MICHAELS (SOSS)
NOTARY PUBLIC, State of New York
No. 30-4630199
Qualified in Nassau County
Commission Expires March 30, 1980